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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,851	02/07/2005	Wolfgang Fuchs	3190	4408
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
PRONE, JASON D				
ART UNIT		PAPER NUMBER		
3724				
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05/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,851

Applicant(s)

FUCHS ET AL.

Examiner

Jason Daniel Prone

Art Unit

3724

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 4-24-09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: line 6, the phrase "over least three" should be replaced with "over at least three". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3, 5, 6 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1, the phrase "the peripheral side connecting the two opposing longitudinal sides comprises a first connecting element" is unclear. The collar comprises the first connecting element. As claimed the baseplate has the peripheral sides not the collar. This phrase needs to be amended to say "the collar having a third side that interconnects the two longitudinal sides that comprises a first connecting element. Basically as claimed, the first element is not part of the collar.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braunbach et al. (5,678,314) in view of EP 1428636 and Fushiya et al. (D326,399) further in view of Gierke (D363,656). See Figure A below for examiner added reference numerals to Braunbach et al. Braunbach et al. disclose the invention, with regards to claim 1, including a base plate for a circular saw (11) comprised of a metal sheet (Column 5 lines 34-39), a plurality of reinforcing elements that protrude out from a plane of the metal sheet (Fig. 2), at least one of the reinforcing elements is embodied in the form of a lateral stop surface configured as two opposing longitudinal sides of a collar that extends over at least three peripheral sides of the base plate (650), having a row of attaching elements that protrude out from the plane and are capable for fastening the base plate to a miter angle (900), and the metal sheet is configured as a stamped and bent metal sheet (Column 5 lines 34-39), and the entire base plate is embodied in one piece (11).

In regards to claims 6 and 9, Braunbach et al. disclose another of the plurality of reinforcing elements is embodied in the form of a crease (700) and a stamping and bending process (Column 5 lines 34-39).

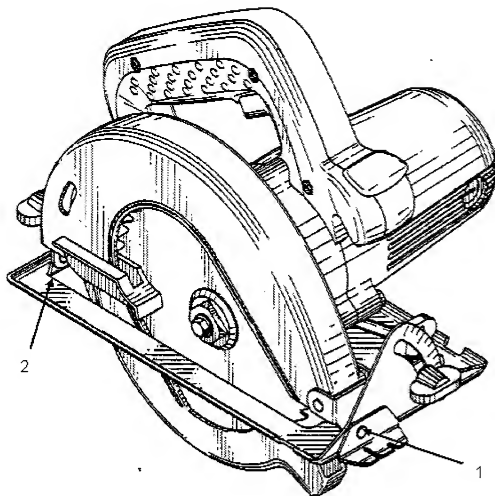
However, with regards to claims 1 and 3, Braunbach et al. fail to disclose the side connecting the longitudinal sides has a first connecting element, another of the reinforcement elements is configured as an additional collar surrounding an opening for a saw blade and having a second connecting element, the first and second elements are integrated into the base plate and have bores for supporting a pin and defining a rotation axis, and the metal sheet is an aluminum alloy

Fushiya et al. (see Figure B) teach it is old and well known in the art of circular saw base plates to incorporate the side connecting the longitudinal sides has a first connecting element (1), second connecting element (2), the first and second elements are integrated into the base plate and have bores for supporting a pin and defining a rotation axis (1, 2). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Braunbach et al. with the connecting elements, as taught by Fushiya et al., to allow the user to adjust the angle of the saw and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Braunbach et al. in view of Fushiya et al. fail to disclose the second connecting element is part of another of the reinforcement elements that is configured as an additional collar surrounding an opening for a saw blade.

Gierke teaches it is old and well known in the art of circular saw base plates to incorporate the second connecting element is part of another of the reinforcement elements that is configured as an additional collar surrounding an opening for a saw blade (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Braunbach et al. in view of Fushiya et al. with the additional collar, as taught by Gierke, to allow the user to adjust the angle of the saw and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Figure B:



EP 1428636 teaches that it is old and well known in the art of power tool base plates to incorporate an aluminum alloy (lines 1-2 of [0032]). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Braunbach et al. with an aluminum alloy base, as taught by EP 1428636, to reduce the weight and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods

with no change in their respective function and the combination would have yielded predictable results.

With regards to claims 2 and 5, Braunbach et al. in view of EP 1428636 disclose the invention but are silent with respect to thickness dimensions. However, it is clear that the thickness of Braunbach et al. would be on the same order as the claim thicknesses. On page 6 of the specification, applicant states "stamped components typically require material thicknesses of greater than 5mm". However the word "typically" allows one to interpret the fact that typical thicknesses are above 5mm but could be below 5mm (i.e. 3mm). In light of this and EP 1428636 clearly discloses that weight of the base plate is an issue (lines 1-2 of [0032]), one of ordinary skill in the art would have clearly reduced the thickness for another way of reducing the weight of the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a 3mm thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Also, it would have been obvious to one of ordinary skill to experiment with reduced/increased thicknesses to be able to perform specific intended uses better. Also, it is noted that there are a limited number of thicknesses available that could be used for a base plate to a person of ordinary skill in the art. It would have been obvious to try/experiment with all dimensions within the range of limited choices. The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is

likely the product is not of innovation but of ordinary skill and common sense. In this case, it is common sense to reduce the thickness to reduce the weight or to use less material in the manufacturing of the base plate.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3, 5, 6 and 9 have been considered but are moot in view of the new ground(s) of rejection. The newly added limitation does not prevent a base plate with a four-walled collar from anticipating the current claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Daniel Prone whose telephone number is (571)272-4513. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000

15 May 2009

/Jason Daniel Prone/

Primary Examiner, Art Unit 3724